

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JANET S. SPEARS,

Plaintiff,

V.

JO ANNE B. BARNHART, Commissioner,
Social Security Administration,

Defendant.

Case No. C04-5333RBL

**REPORT AND
RECOMMENDATION TO DENY
APPLICATION TO PROCEED
*IN FORMA PAUPERIS***

Noted for July 8, 2005

This case has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. This matter comes before the court on plaintiff's filing of an application to proceed *in forma pauperis* and a complaint to review and set aside a decision of the Social Security Administration under 42 U.S.C. § 405(g). Because plaintiff already has paid the court filing fee, the undersigned recommends that the court deny the application.

DISCUSSION

A district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. See 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed *in forma pauperis*. Weller v. Dickson, 314 F.2d 598 (9th Cir. 1963), *cert. denied*, 375 U.S. 845 (1963).

On May 20, 2005, the plaintiff payed the court filing fee and filed her complaint. (Dkt. #1). On

1 May 24, 2005, plaintiff filed her application to proceed *in forma pauperis*. (Dkt. #4). Because plaintiff has
2 paid the filing fee, however, her application to proceed *in forma pauperis* is moot.

3 CONCLUSION

4 Because plaintiff has paid the court filing fee, the undersigned recommends that the Court deny her
5 application to proceed *in forma pauperis*.

6 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure (“Fed. R.
7 Civ. P.”), plaintiff shall have ten (10) days from service of this Report and Recommendation to file written
8 objections thereto. See also Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those
9 objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit
10 imposed by Rule 72(b), the clerk is directed set this matter for consideration on **July 8, 2005**, as noted in
11 the caption.

12 DATED this 14th day of June, 2005.

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16 Karen L. Strombom
17 United States Magistrate Judge
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